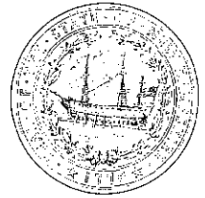




The State of New Hampshire  
**Department of Environmental Services**



Michael P. Nolin  
Commissioner  
July 13, 2004

**RECEIVED**

**JUL 13 2004**

Mr. John Bridges, Chairman  
Water Council  
20 Hazen Drive  
Concord, NH 03302

Re: Docket No. 04-14 WC – Mark and Marianne Bonaiuto Appeal

Dear Chairman Bridges:

Mark and Marianne Bonaiuto have requested that the Water Council waive Procedural Rule Env-Wc 203.02 relative to a Notice of Appeal of the Department of Environmental Services Shoreland Protection Waiver, Wetlands File No. 2004-00355.

The DES Water Division supports this request to waive the time frame for filing an appeal to the Water Council.

Upon the advice of DES Wetlands Bureau staff, Mr. and Mrs. Bonaiuto filed a "request for reconsideration" to the Wetlands Bureau within 20 days of the original DES decision being appealed. This was timely filed in accordance with Wetlands Bureau procedures for request for reconsideration. However, based on direction from DES staff, the filing was to the wrong entity, the DES Wetlands Bureau rather than the Water Council. And, the error was discovered after the window to timely file to the Water Council had passed. "Request for reconsideration" is the initial mechanism for appeal of wetlands program permitting decisions, which ultimately are heard by the Wetlands Council if not resolved, but not for Shoreland Protection Act decisions, which are heard by the Water Council. Shoreland Protection Act decisions are not subject to the reconsideration process but go directly to the Water Council for consideration. Within the DES Water Division, both programs are located in the Wetlands Bureau and there are typically few appeals under the Shoreland Protection Act. Furthermore, the Shoreland Protection Act, RSA 483-B, does not explicitly state which council should ultimately hear appeals although historic practice has been for these to be heard by the Water Council. Since Mr. and Mrs. Bonaiuto were inadvertently provided with the wrong information on the appeal process by DES staff, the DES Water Division supports this waiver request.

Thank you for your consideration.

Sincerely yours,  
**COPY**

Harry T. Stewart, P.E.  
Director, Water Division